FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 18/2006

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 12, 2007.

Heard Mr. Kakirde for the appellant, and Shri Tathod for the respondent.

The appellant is the original defendant. A suit was filed by the respondent/plaintiff for permanent injunction restraining the defendant from interfering with the peaceful possession of the plaintiff over the suit property. It was pleaded by the plaintiff that the suit property was purchased by the plaintiff in the year 1999 from the father of the defendant. The defendant resisted the claim of the plaintiff and submitted that the suit property fell to the share of the defendant in view of the registered partition deed of the year 1958.

The trial Court framed the necessary issues and held that the plaintiff had proved that he is the lawful owner of the suit property and was in lawful possession thereof. The trial Court further held that the defendant had failed to prove that he was the

owner of the suit property in view of the partition effected in the year 1958. The trial Court relied on the admissions of the defendant in his cross-examination to the effect that the partition deed of the year 1958 was not acted upon and the partition deed was also declared nominal by a competent Court in the year 1988 in Regular Civil Suit No. 365/1984. In view of the aforesaid finding, the suit filed by the plaintiff was decreed by the trial Court. The findings of facts recorded by the trial Court were upheld by the appellate Court in an appeal filed by the defendant against the judgment and decree passed by the trial Court.

Both the Courts have recorded the findings of facts on proper appreciation of the material evidence on record and hence the findings do not call for any interference in this second appeal. Since no substantial question of law arises for consideration in this second appeal, second appeal is dismissed with no order as to costs.

JUDGE

RMP